

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Number Resource Optimization	)	
	)	
Qwest Communications Corporation, on	)	CC Docket No. 99-200
Behalf of its IP-Enabled Service Operations,	)	
Petition for Limited Waiver of Section	)	
52.15(g)(2)(i) of the Commission's Rules	)	
Regarding Numbering Resources	)	

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**QWEST COMMUNICATIONS CORPORATION,  
ON BEHALF OF ITS IP-ENABLED SERVICE OPERATIONS,  
PETITION FOR LIMITED WAIVER**

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**I. QCC/IPES PRESENTS THE SAME FACTUAL SITUATION AS SBCIS WITH RESPECT TO THE NEED FOR NUMBERING RESOURCES AND IT SHOULD BE GRANTED A LIMITED WAIVER COMPARABLE TO SBCIS'.**

Qwest Communications Corporation, on behalf of its IP-Enabled Services operations ("QCC/IPES"), respectfully requests that the Federal Communications Commission ("Commission"), grant a limited waiver of its Section 52.15(g)(2)(i) rule to allow QCC/IPES to obtain numbering resources directly from the North American Numbering Plan Administrator ("NANPA") and/or the Pooling Administrator ("PA"), in a manner comparable to the waiver granted to SBC Internet Services, Inc. ("SBCIS").<sup>1</sup> QCC/IPES requests, as did SBCIS, that its limited waiver be extended until such time as the Commission adopts final numbering rules

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<sup>1</sup> *In the Matter of Administration of the North American Numbering Plan*, Order, CC Docket No. 99-200, FCC 05-20 (rel. Feb. 1, 2005) ("*SBCIS Numbering Waiver Order*"). SBCIS filed its Petition for Limited Waiver on July 7, 2004.

either through the North American Numbering Council (“NANC”) or in the *IP-Enabled Services* proceeding.<sup>2</sup>

QCC/IPES intends to use these numbering resources in deploying IP-enabled services, including Voice over Internet Protocol (“VoIP”) services, on a commercial basis to residential, governmental, educational and business customers, similarly to the use SBCIS anticipated with respect to the numbers it would receive from NANPA/PA. As discussed below, just as the Commission found that good cause existed to grant SBCIS a limited waiver, the same good cause exists to grant QCC/IPES its requested waiver.

The Commission granted SBCIS a limited waiver of the current number distribution rules in large part to further its goals and objectives with respect to the promotion and advancement of new technologies and innovative services. And in the *SBCIS Numbering Waiver Order*, the Commission stated that it would grant similar authority to those entities seeking similar relief.<sup>3</sup> Since QCC/IPES’ facts and circumstances are not materially distinguishable from those of SBCIS, the Commission should here find good cause to grant this waiver request as being consistent with the public interest. Moreover, competitive considerations compel the conclusion that a service provider similarly-situated to SBCIS should have the same access to numbering resources as SBCIS.

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<sup>2</sup> *In the Matter of IP-Enabled Services*, Notice of Proposed Rulemaking, 19 FCC Rcd 4863 (2004) (“*IP-Enabled Services NPRM*”).

<sup>3</sup> *SBCIS Numbering Waiver Order* at ¶ 4.

## II. QCC/IPES WILL COMPLY WITH THE CONDITIONS INCORPORATED IN THE *SBCIS NUMBERING WAIVER ORDER*.

### A. QCC/IPES Meets The Standard For A Waiver Under Generally-Applicable Law

The Commission may waive its rules for good cause<sup>4</sup> and where strict application of the rule would be contrary to the public interest.<sup>5</sup> In determining whether to grant a waiver, the Commission may consider hardship, equity, or the fact that a more effective implementation of public policy will attend the granting of the waiver.<sup>6</sup> Just as these considerations weighed in favor of granting a limited waiver to SBCIS, so too do they support granting QCC/IPES' instant Petition.

### B. Granting QCC/IPES' Waiver Petition Is In The Public Interest

The Commission has already held that, subject to certain conditions, allowing an entity providing IP-enabled services to secure numbers directly from the NANPA is in the public interest because it promotes efficiency and innovation.<sup>7</sup> Still, in granting the SBCIS waiver, the Commission limited the relief "by certain conditions."<sup>8</sup> "Specifically, [it] require[d] SBCIS to comply with the Commission's other numbering utilization and optimization requirements, numbering authority delegated to the states, and industry guidelines and practices<sup>9</sup>] . . . [and] to

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<sup>4</sup> 47 C.F.R. § 1.3; *see also SBCIS Numbering Waiver Order* at ¶ 4, citing to *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) ("*WAIT Radio*").

<sup>5</sup> *SBCIS Numbering Waiver Order* at *id.*; *see also Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

<sup>6</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>7</sup> *SBCIS Numbering Waiver Order* at ¶¶ 4, 8. *See also IP-Enabled Service NPRM*, 19 FCC Rcd at 4867 ¶ 5.

<sup>8</sup> *SBCIS Numbering Waiver Order* at ¶¶ 4, 8.

<sup>9</sup> *See* 47 C.F.R. § 52, *et seq.* And *see*, specifically § 52.15(f)(6) requiring carriers to file Numbering Resource Utilization and Forecast Reports ("NRUF") and § 52.15(g)(2)(ii) incorporating a "facilities readiness" requirement. *SBCIS Numbering Waiver Order* at ¶¶ 4, 8.

file any requests for numbers with the Commission and the relevant state commission at least thirty days prior to requesting numbers from the NANPA or the PA.”<sup>10</sup>

QCC/IPES agrees to abide by these conditions.<sup>11</sup> QCC/IPES’ long years of experience in administering the Commission’s numbering rules in its capacity as a provider of telecommunications services provides it with an experienced staff familiar with industry norms and practices, as well as the regulatory requirements associated with using assigned numbers.

C. The Bureau Should Grant QCC/IPES’ Requested Waiver On An Expedited Basis

The Commission has referred to IP-enabled services as “innovative,” “revolutionary” and as having “a profound and beneficial impact on American consumers.”<sup>12</sup> The Commission has further stated that IP-enabled services have “increased economic productivity and growth” and has recognized that VoIP, in particular, “will encourage consumers to demand more broadband connections, which will foster the development of more IP-enabled services.”<sup>13</sup>

QCC/IPES is seeking a limited waiver of the Commission’s rules to remain in effect only until such time as the Commission adopts final numbering rules in the *IP-Enabled Services* proceeding. Given that QCC/IPES’ waiver Petition reflects facts fundamentally indistinguishable in this Petition from those presented by SBCIS, and that QCC/IPES has agreed to comply with the conditions articulated in the *SBCIS Numbering Waiver Order*, the public interest benefits associated with granting expedited relief are clear. Therefore, in furtherance of

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<sup>10</sup> *SBCIS Numbering Waiver Order at id.* (footnote omitted) and ¶¶ 9-10.

<sup>11</sup> Although Qwest agrees to comply with such requirements as *if* it were a “telecommunications carrier,” Qwest does not intend to prejudice its fundamental position that IP-enabled offerings, including VoIP offerings, are “information services.”

<sup>12</sup> *In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, 19 FCC Rcd 22404, 22431 ¶ 43 (2004), *appeal pending sub nom. People of the State of California, et al. v. FCC*, No. 05-70007 (9<sup>th</sup> Cir. *pet. for rev.* filed Jan. 3, 2005).

<sup>13</sup> *IP-Enabled Services NPRM*, 19 FCC Rcd at 4867 ¶ 5.

its long-held desire to afford consumers rapid access to new technologies, and in order to ensure that consumers will have choices within these new service offerings, the Bureau should grant QCC/IPES' Petition for Limited Waiver on an expedited basis.

### **III. CONCLUSION.**

For all of the reasons stated herein, QCC/IPES respectfully requests that the Commission expeditiously grant this Petition for Limited Waiver of 47 C.F.R. § 52.15(g)(2)(i) to allow QCC/IPES direct access to numbering resources for purposes of offering IP-enabled services.

Respectfully submitted,

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CORPORATION/IPES

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## CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **QWEST COMMUNICATIONS CORPORATION, ON BEHALF OF ITS IP-ENABLED SERVICE OPERATIONS, PETITION FOR LIMITED WAIVER** to be 1) filed with the FCC via its Electronic Comment Filing System, and 2) served, via e-mail, on the FCC's duplicating contractor Best Copy and Printing, Inc. at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Richard Grozier  
Richard Grozier

March 29, 2005